

COMMISSION MEETING

1:30 P.M.

DECEMBER 4, 2019

The Governing Body of the City of Emporia, Kansas, met in Regular Session, Wednesday, December 4, 2019, in the City Commission Meeting Room with Mayor Geitz presiding and Commissioners Giefer, Gilligan, Mlynar and Smith present. Also present were City Manager McAnarney, Assistant City Manager Massey, City Clerk Sull and City Attorney Montgomery.

Consent Agenda

It was moved by Commissioner Gilligan, seconded by Commissioner Giefer that the Consent Agenda listed below be ratified as a whole:

- a. Consider minutes of the Regular Meetings held on November 26, 2019.
- b. Consider ratification of Payroll Ordinance for period ending November 22, 2019.
- c. Consider Approving City Charge Offs.
- d. Consider Change Order No. 1 for the 2019 Paving Project Industrial Road Widening Project No. PV1901.

The vote follows: Commissioner Gilligan, Commissioner Giefer, aye; Commissioner Mlynar, aye; Commissioner Smith, aye; and Mayor Geitz, aye.

**CITY COMMISSION
(Public Comment)**

This is the time for the public to make comments. No comments were made at this time.

City Manager McAnarney stated the City of Emporia was the recipient of the 2019 Merit Award for Design-Build Competition for the Emporia Wastewater Treatment Plant. He stated the Wastewater Treatment Plant completed upgrades for requirements through KDHE which focused on improvements to equipment and fixtures that will increase energy efficiency and accommodate growth within Emporia. The upgraded plant has state of the art design and function which earned the City of Emporia the award.

Mayor Geitz then presented the 2019 Merit Award for Design-Build Competition for the Emporia Waste Water Treatment Plant to Scott Gumfory,

Waste Water Treatment Plant Supervisor; and Dean Grant, Public Works Director.

Bobby Thompson, President of EFOZ, and other representatives with the Emporia Friends of the Zoo, were in attendance to present the City with funds that have been donated for the Entry & Waterfowl Pond at the David Traylor Zoo in the amount of \$859,110.00. Fund raising efforts and donations will allow for further improvements to be made at the David Traylor Zoo to help support the Zoo's Master Plan. The funds were then presented to Mayor Geitz.

Mayor Geitz stated on behalf of the Commission they would like to thank the Emporia Friends of the Zoo for their hard work and dedication for improving the quality of life for all of the community to enjoy at the David Traylor Zoo. The improvements to the Zoo could not be done without the generous efforts of the Emporia Friends of the Zoo.

**DAVID TRAYLOR ZOO
(Front Entry and Waterfowl Pond Project and Signage)
(Bids)**

City Manager McAnarney stated this is part of the Master Plan and OASIS Campaign for the David Traylor Zoo. The City of Emporia has been working with the Emporia Friends of the Zoo (EFOZ) on this project. He stated the EFOZ has raised the funds necessary to make improvements to the David Traylor Zoo. Phase I improvements include improvements to the zoo entrance, waterfowl pond and signage. The bids are as follows:

BID TABULATION DAVID TRAYLOR ZOO FRONT ENTRY & WATERFOWL POND

	Base	Mechanical	Electrical	Total
Eby Construction	\$1,372,000.00	\$14,550.00	\$30,000.00	\$1,416,550.00
KBS Construction	\$1,129,676.00	\$ 1,410.00	\$14,850.00	\$1,145,936.00
Mitchell-Markowitz Const.	\$ 842,700.00	\$ 1,410.00	\$15,000.00	\$ 859,110.00

Staff recommends awarding the bid for the improvements to the David Traylor Zoo to the low bid submitted by Mitchell-Markowitz Construction in the amount of \$859,110.00.

Commissioner Mlynar made a motion to award the bid for the improvements to the David Traylor Zoo front entry, waterfowl pond and signage to the low bid submitted by Mitchell Markowitz Construction in the amount of \$859,110.00. Commissioner Smith seconded the motion. The vote follows: Commissioner Mlynar aye; Commissioner Smith, aye; Commissioner Giefer, aye; Commissioner Gilligan, aye; and Mayor Geitz, aye.

ENGINEERING
(Sanitary Sewer Re-Alignment (Glendo) Project No. SS1902)
(Bids)

Jim Ubert, City Engineer, was recognized and addressed the Governing Body. He stated bids were received for the Sanitary Sewer Re-Alignment (Glendo) Project NO. SS1902. This project will relocate the sewer line back into the easement where it belongs. He stated the current sewer line will be in service until the new line is completed. The bids are as follows:

BID TABULATION SANITARY SEWER RE-ALIGNMENT PROJECT NO. SS1902

Contractor	Total Base Bid
Rubick Construction, Inc.	\$31,739.17
Matador Construction	\$32,746.00
Greeley Excavating, LLC	\$39,100.00
S. R. Coffman Construction, Inc.	\$45,497.99
Engineer's Estimate	\$44,400.00

He stated staff recommends awarding the project to Rubick Construction, Inc. in the amount of \$31,739.17. Rubick Construction, Inc. is currently working on the 6th Avenue water line and has worked with the City on other projects. This project will be paid for from the Sewer Fund.

Commissioner Giefer made a motion to award the bid for the Sanitary Sewer Re-Alignment (Glendo) Project No. SS1902 to Rubick Construction, Inc. for a total base bid amount of \$31,739.17. Commissioner Smith seconded the motion. The vote follows: Commissioner Giefer, aye; Commissioner Smith, aye; Commissioner Gilligan, aye; Commissioner Mlynar, aye; and Mayor Geitz, aye.

PLANNING AND DEVELOPMENT
(MAPC Excerpts of Regular Meeting Held 11-19-19)
(Application No. 2019-09, 10, 11 - Request of Riverside Court LLC)
(Annex 4 Acres of Property on S. West St. into City Limits)

Excerpt of Planning Commission Minutes from November 19, 2019.

The Planning Commission met in regular session on Tuesday, November 19, 2019, with Vice Chair Thomas presiding. Members Bucklinger, Duncan, Garrett, Just, Thomas and Williams were present. Members Sauder, Moore, and Chairman Springeman were absent.

Applications 2019-09 and 2019-10, and 2019-11 were considered together, with one motion and vote for all the applications.

4. APPLICATION 2019-09: A request of Lynn Cunningham on behalf of Riverside Court LLC to annex approximately 4 acres of property on S. West Street into the City of Emporia to connect to city utilities.

Analysis: The applicant would like to annex this property to be able to connect to city utilities and streets. This annexation is contiguous with the city limit line to the north. This area is larger than four acres but only the 4 acres are planned to be annexed into the city limits.

The applicant is proposing a new subdivision development at this location. The proposed use is consistent with the comprehensive plan. The Utility Advisory Board met October 17th and discussed the property, there are adequate utilizes in place at this location. The Technical Review Team met October 16th and discussed the property and applications. This was reviewed by the traffic safety board November 18th, parking was discussed, no motion was made by the traffic safety board. There were no expressed concerns as long as parking spaces were not removed.

The 2020 Floodplain maps will remove this area from the floodplain. Currently there is a LOMA that removes the floodplain from this area. Floodplain is not a concern for staff for this proposed development.

Comments: Member Duncan asked what the size of the whole parcel is. Secretary Foster noted this was a 14-acre tract, but on the 4-acre portion was completely out of the floodplain.

Recommendation: Approve as a normal extension of the community.

Comments:

Member Bucklinger asked if there was any residential housing within 200 ft of this property.

Secretary Foster noted that there was just one house that was not part of the parcel.

Public Hearing:

Lynn Cunningham, 409 Oak Street, Cottonwood Falls, of Riverside Court LLC.

Our plan is build 11 homes under the price of \$200,000. Member Bucklinger asked if these houses would be modular or stick building. Ms. Cunningham stated these would be stick built homes.

No opposition.

Public Hearing was closed.

Motion: Member Bucklinger noted that Emporia is in need of quality houses, and made a motion to approve all three applications based on staff recommendations.
Member Williams seconded the application

Member Garrett asked if there had ever been mention of this area flooding.

Secretary Foster noted that this area was evaluated had no history of flooding and was well above the flood plain levels.

Motion was approved 6-0.

Joe Foster, Zoning Enforcement Officer, was recognized and addressed the Governing Body. He stated this is a request for Riverside Court, LLC to annex and rezone four (4) acres of the property located on S. West Street into the City limits. The applicant is proposing a new subdivision development at this location. He stated the Utility Advisory Board discussed there are adequate utilities in place at this location. The proposed use is consistent with the comprehensive plan. This property is contiguous with the City. The annexation will allow for future development and utilities to this property and bring it within the city limits. He stated the 2020 Flood plain maps will remove this area from the flood plain. Currently there is a letter of map amendment from the Federal Emergency Management Agency. At their November 19, 2019 regular meeting, the Planning Commission voted unanimously to approve the request.

PLANNING AND DEVELOPMENT
(Application No. 2019-09, 10, 11 - Request of Riverside Court LLC)
(Annex 4 Acres of Property on S. West St. into City Limits)
(Ordinance No. 19-32)

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF EMPORIA, KANSAS TO INCLUDE CERTAIN DESCRIBED LAND, to which the City Clerk assigned Ordinance Number 19-32, was presented to the Governing Body for their consideration.

Commissioner Gilligan made a motion to approve Ordinance Number 19-32, an ordinance extending the boundaries of the City of Emporia to include a portion of property located on S. West Street. Commissioner Giefer seconded the motion. The vote follows: Commissioner Gilligan, aye; Commissioner Giefer, aye; Commissioner Mlynar, aye; Commissioner Smith, aye; and Mayor Geitz, aye.

PLANNING AND DEVELOPMENT
(Application No. 2019-09, 10, 11 - Request of Riverside Court LLC)
(Rezone 4 Acres of Property on S. West St.)
(From Agriculture Zoning to R-1, Single-Family Low-Density Zoning)
(Ordinance Number 19-33)

AN ORDINANCE REZONING A PROPERTY IN THE CITY OF EMPORIA, KANSAS FROM AGRICULTURAL ZONING, TO R-1, SINGLE FAMILY LOW DENSITY RESIDENTIAL AND AMENDING THE DISTRICT ZONING MAP TO CONFORM WITH SAID ZONING, to which the City Clerk assigned Ordinance Number 19-33, was presented to the Governing Body for their consideration.

Joe Foster, Zoning Enforcement Officer, was recognized and addressed the Governing Body. He stated the applicant is requesting to rezone four (4) acres of property on S. West St. to allow for future single-family home development. At their November 19, 2019 regular meeting, the Planning Commission voted unanimously to approve the request as it is consistent with the Future Use and Comprehensive Plan and it is a normal extension of the community.

Commissioner Gilligan made a motion to approve Ordinance Number 19-33, an ordinance rezoning four (4) acres of property on S. West St., from Agriculture Zoning to R-1, Single-Family Low-Density Zoning. Commissioner Smith seconded the motion. The vote follows: Commissioner Gilligan, aye;

Commissioner Smith, aye; Commissioner Giefer, aye; Commissioner Mlynar, aye; and Mayor Geitz, aye.

PLANNING AND DEVELOPMENT
(MAPC Experts of Regular Meeting Held 11-19-19)
(Application No. 2019-12 - Request of Kimlay & Leak Tan)
(Conditional Use Permit for 1028 Commercial St.)

Excerpt of the November 19, 2019 Planning Commission Meeting minutes:

The Planning Commission met in regular session on Tuesday, November 19, 2019, with Vice Chair Thomas presiding. Members Bucklinger, Duncan, Garrett, Just, Thomas and Williams were present. Members Sauder, Moore, and Chairman Springeman were absent.

7. Application 2019-12: A request of Kimlay and Leak Tan, for a Conditional Use Permit for a residential living units on the ground floor in a C4, Central Business District, located at 1028 Commercial, as authorized by Section 10-202 of the Emporia-Lyon County Metropolitan Planning Area Zoning Regulations.

Analysis:

The applicant is proposing a development similar to the other past applications of similar nature. This projected is located at 1028 Commercial St. Neighboring properties were approved for conditional use permits including the allowance for 10 units on the ground floor across the street from this location..

This proposed development will have 1 living unit with an upper and lower floor (see preliminary plans). As a C-4 there is no off street parking required.

The Technical Review Team met on October 16th to discuss the project; Community Development, Fire Dept., Public Works, Engineering Dept., Code Service and Assistant City Manager were present. There were no expressed concerns with the application.

Regarding the proposed project:

The apartment door will face 11th Ave, there will be a firewall between the current and proposed building. The proposed project will be comparable to other ground floor units. This will be the primary dwelling unit for the property owners, not a rental unit. The proposed use allows for the highest and best use of this property in staff's opinion. It is compatible with the ELC

Comprehensive Plan. This location is not within the historic district.

Recommendations: Staff recommends approval of the application with the condition the location of the ground floor residential unit is the same as shown in the attached site plan. This request is similar to other requests granted in the past (Applications 2017-13, 2010-15, 2015-05, 2008-14).

Member Bucklinger asked if any of the current building would be removed for the construction of the new building.

Staff noted not to his knowledge.

Member Williams noted that this addition would almost make this property conforming to neighboring properties.

Public Hearing:

Peter Hauff, Emig Associate, represented that applicant. Mr. Hauff noted that the back end of the building would need to be removed to allow for the proposed addition. The two stories onto the one story structure would not create issues.

Cory Haag, 1102 Commercial Suite A, addressed the board in favor of the application. Mr. Haag noted that the property owner is hard working and works late hours every night. Mr. Haag sees them often shuffling her young children in and out of the building late at night. The new addition would allow them and their children to live on the location, and this would be a great improvement for their family.

Mr. Haag stated as we continue to open up to mixed use development we see the people of Emporia living and working downtown, being the eyes on the street and that this reduces crime and other issues.

Mr. Haag stated it was rare to see such dedicated people, who work so hard, and that want to improve the community and their business.

Mr. Haag noted that this project would cost upward of \$250,000 to complete and trusted that it would be fitting downtown. He noted this is the new model for downtown, and would like to see more of it.

No opposition.

Member Duncan asked what the outside of the building looked like.

Mr. Hauff stated they were waiting to see if this project was viable before more detail plans were completed.

Motion:

Member Just made a motion to approve based on staff recommendation.

Member Williams seconded the motion.

The application was approved 6-0.

Joe Foster, Zoning Enforcement Officer, was recognized and addressed the Governing Body. He stated this is a request of Kimlay and Leak Tan for a Condition Use Permit to allow the owners of the property to build an attached two-story single-family dwelling attached to the back of their business in a C4, Central Business District located at 1028 Commercial St. As authorized by Section 10-202 of the Emporia-Lyon County Metropolitan Planning Area Zoning Regulations. The proposed project will be comparable to other ground floor units. This will be the primary dwelling unit for the property owners and not a rental unit. The commercial use would still face Commercial Street. He stated at their at their November 19, 2019 regular meeting, the Planning Commission voted unanimously to approve the request.

**PLANNING AND DEVELOPMENT
(Application No. 2019-12 - Request of Kimlay & Leak Tan)
(Conditional Use Permit for 1028 Commercial St.)
(Ordinance Number 19-34)**

AN ORDINANCE ISSUING A CONDITIONAL USE PERMIT FOR A CERTAIN DESCRIBED AREA IN THE CITY OF EMPORIA, KANSAS, to which the City Clerk assigned Ordinance Number 19-34, was presented to the Governing Body for their consideration.

Commissioner Smith made a motion to approve Ordinance Number 19-34, an ordinance to allow a Conditional Use Permit for a ground floor apartment within the C-4, Central Business District at 1028 Commercial Street. Commissioner Mlynar seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Mlynar, aye; Commissioner Gilligan, aye; Commissioner Giefer, aye; and Mayor Geitz, aye.

CITY OF EMPORIA
(Approve Municipal Water Conservation Plan)
(Ordinance Number 19-35)

AN ORDINANCE AMENDING CITY CODE 28-28 WATER CONSERVATION PROVISIONS; AUTHORIZING THE DECLARATION OF ONE OF THREE PROGRESSIVE STAGES OF A WATER SUPPLY CONSERVATION AND /OR WATER SUPPLY SHORTAGE WHICH SHALL CONSERVE OR CURTAIL THE USE OF WATER WITHIN THE CITY OF EMPORIA ("THE CITY"); ESTABLISHING THREE STAGES OF WATER CONSERVATION MEASURES FOR THE CITY; A WATER WATCH, WARNING OR EMERGENCY; ESTABLISHING PROCEDURES AND VOLUNTARY AND MANDATORY CONSERVATION MEASURES; AUTHORIZING THE ISSUANCE OF ADMINISTRATIVE REGULATIONS; AND PRESCRIBING CERTAIN PENALTIES, to which the City Clerk assigned Ordinance Number 19-35, was presented to the Governing Body for their consideration.

City Attorney Montgomery, was recognized and addressed the Governing Body. She stated the City is required to update our Water Conservation Plan as part of the KDHE State Revolving Loan Fund approval process. Staff has worked with the State on a plan proposal to meet the current requirements while maintaining most of our current water conservation practices. She recommended approval of the Municipal Water Conservation Plan and adoption of the ordinance.

Following further discussion, Commissioner Giefer made a motion to approve the Municipal Water Conservation Plan and approve Ordinance Number 19-35, an ordinance amending City Code 28-28 Water Conservation provisions. Commissioner Smith seconded the motion. The vote follows: Commissioner Giefer, aye; Commissioner Smith, aye; Commissioner Gilligan, aye; Commissioner Mlynar, aye; and Mayor Geitz, aye.

CITY COMMISSION
(City Manager's Report)

This is a verbal report that announces upcoming events, recognizes employees for outstanding contributions and provides the public information that may be of a general interest. The following information was presented at the meeting:

At this time this Agenda was prepared, the following items were in the works:

TENTATIVE AGENDA FOR DECEMBER 11TH STUDY SESSION @ 10:30 A.M.

1. Review Two RHID Areas.

Employee Holiday Luncheon

EXECUTIVE SESSION

Commissioner Gilligan made a motion to adjourn into Executive Session for preliminary discussion regarding potential land acquisition from 1:50 p.m. to 1:55 p.m., in the City Conference Room. Commissioner Mlynar seconded the motion. The vote follows: Commissioner Gilligan, aye; Commissioner Mlynar, aye; Commissioner Giefer, aye; Commissioner Smith, aye; and Mayor Geitz, aye.

Upon reconvening the meeting in Regular Session, at 1:55 p.m., this same date, in the City Conference Room, Mayor Geitz stated they had preliminary discussion regarding potential land acquisition and no action was taken.

Commissioner Mlynar then made a motion to adjourn. Commissioner Giefer seconded the motion. The vote follows: Commissioner Mlynar, aye; Commissioner Giefer aye; Commissioner Gilligan, aye; Commissioner Smith, aye; and Mayor Geitz aye.

Jon Geitz, Mayor

ATTEST:

Kerry Sull, City Clerk